

COUNTY OF SAN DIEGO, CALIFORNIA
PLANNING COMMISSION POLICY

SUBJECT: PLANNING COMMISSION PROCEDURAL RULES FOR CONDUCT OF ZONING AND PLANNING HEARINGS	POLICY NUMBER	EFFECTIVE DATE	PAGE
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PURPOSE:

To establish procedural rules, in accordance with State requirements to govern the conduct of County zoning and planning hearings by the Planning Commission

BACKGROUND

The State of California has enacted certain minimum procedural standards for the conduct of city and county zoning and planning hearings and has imposed the requirement that all local city and county agencies publish procedural rules for conduct of their hearings. This action was taken with the stated intent of ensuring uniformity of, and access to, such hearings while maintaining the maximum control of cities and counties over zoning matters. (Government Code Section 65804.)

POLICY:

It is the policy of the Planning Commission that Article XXIa of the Administrative Code of County of the County of San Diego be adhered to and shall govern the conduct of all Planning Commission Hearings, in addition to the following:

1. Agenda

At least 72 hours prior to the beginning of all Planning Commission meetings, copies of the Planning Commission's Final Agenda shall be available at the office of the Secretary of the Commission. Copies of the complete agenda shall be available for inspection at the same office and in chambers during meeting.

2. Submission of Writings

Documents to be considered as evidence shall be filed with the Secretary of the Planning Commission not later than the close of business of the second working day prior to when the item to which they relate is scheduled to be considered. (For example, documents must be filed by 4:00 p.m. on Wednesday prior to the Friday Planning Commission meeting.) The Planning Commission may, however, receive into evidence for good cause shown, or impose reasonable conditions on, late-filed documents. Note: The aforementioned does not apply to materials that are presented at the meeting as a part of a visual presentation.

3. Order of Evidence

Unless the presiding officer in his or her discretion shall direct otherwise, the order for presentation of evidence and the Planning Commission's decision thereon shall be as follows:

- a. A brief oral explanation of Commission procedure.
- b. Staff identifies the project and its location and makes its report, including the environmental status and the reasons for the recommendation.

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- c. Testimony from community/subregional planning groups and sponsor groups.
 - d. Any disclosures by members of the Commission relevant to any item on the Commissions agenda.
 - e. Testimony from the applicant or his authorized representative.
 - f. Testimony from the audience.
 - (1) Persons supporting the project shall have the opportunity to testify first. In the case of an appeal, the appellant and persons supporting the appeal shall have the opportunity to testify first.
 - (2) Persons in opposition to the project or an appeal shall have the opportunity to testify next.
 - (3) Time may be allowed for rebuttal by the applicant or his authorized representative. Rebuttal in the case of an appeal may be at the discretion of the Commission
 - (4) The Planning Commission shall have the opportunity to question speakers and staff.
 - g. Recommendation of staff may be changed by staff at this time due to new evidence presented during course of hearing
 - h. Hearing closed, Commission discussion, and motion for action on proposal made.
 - i. Discussion on motion.
 - (1) If upholding staff recommendation, Commission approves reasons submitted by staff for action and may add or substitute other reasons for decision.
 - (2) If reversing staff recommendation, the Commission states reasons for the action.
4. Time Limit When Addressing the Commission
- a. The presentation by the applicant or his authorized representatives shall be limited to three minutes per person unless other time limits are expressly established by the Commission. The Commission may grant additional time to the applicant to respond to staff's presentation or public testimony (time for rebuttal).
 - b. A person in the audience wishing to present testimony, either for or against a particular project, shall be limited to three minutes unless otherwise expressly permitted by the Commission. A person may speak only once for any item on the agenda.

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- c. The Chairperson of a Planning or Sponsor Group is the sole official spokesperson for the group unless this responsibility has been delegated in writing or otherwise established by majority vote of the group and communicated in writing to the Chairperson of the Planning Commission. Five minutes may be allowed for such presentation unless the Commission determines that circumstances warrant additional time. If there is a minority report from the Planning or Sponsor Group, the Chairperson of the Planning Commission may allocate up to five minutes for presentation of this report.
- d. At least three persons are required to speak for an organized group presentation. The total time for the group presentation shall not exceed the lesser of the total of three minutes per person or 15 minutes unless the Commission expressly establishes other time limits. All participants in a group presentation must speak.
- e. A person wishing to make a presentation to the Planning Commission on an agenda item must submit a written Request to Speak form to the Planning Commission Secretary before the item is called for discussion if the Commission has not acted on the item without discussion. Any person who does not wish to speak to the Planning Commission but wishes to have the record reflect a position in favor of or in opposition to an agenda item may do so by indicating the same on the Request to Speak form and submitting the form to the Secretary. A Request to Speak form shall be completed at the Planning Commission Hearing Room on the day the agenda item is to be heard. Multiple Request to Speak forms for different speakers will not be accepted from an individual.
- f. Notwithstanding the above provisions, the Chairperson may establish the appropriate time limit for presentations and the number of persons who may address the Commission on any agenda as deemed necessary.

5. Procedural Matters

All procedural matters, including but not limited to, recognition of Commissioners by the Chairperson, motions, seconds, substitute motions, amendments of motions, withdrawal of a motion or second, calling for questions, or tabling of a motion shall be conducted as prescribed by "Rosenberg's Rules of Order" <http://www.greatervalleyglencouncil.org/files/Rosenbergs-Rules-of-Order.pdf> except that an item which is up for Commission reconsideration will subject to State noticing requirements and a new public hearing.

6. Continuance

Any hearing may be continued by the Planning Commission to a date certain or the matter may be remanded back to staff and readvertised pursuant to Paragraph 9 below. The secretary of the Commission shall give notification of the continuance to any person who, prior to such continuance, has filed with the Secretary a written request for such notice. One or more continuances may be granted to the proponents of each position being presented to the Commission upon request and upon a showing of good cause therefore to the satisfaction of the Commission. Where during the course of a hearing it appears desirable that the applicant or the planning staff submit a revised or

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modified plan for incorporation in the decision of the decision-making body, the Commission shall continue the hearing to permit the filing thereof. The Commission will not consider any revised or modified plan to be filed after the close of a hearing.

Continuances should be consistent with Board of Supervisors' Policy I-115 "Limitations on Continuances by Hearing Bodies", which states that hearing bodies should be judicious in the granting of hearing continuances, generally limiting such continuances to no more than three, in order to provide for more streamlined case processing times.

Should any hearing be continued to a later date for the sole purpose of providing staff time to prepare a form of written decision, or to prepare additional and/or revised conditions of approval, no additional testimony or other evidence will be taken at the continued hearing unless expressly permitted by the Chairperson. Discussion between members of the Commission and direction by the Commission to staff with respect to conditions of approval do not constitute additional testimony or evidence within the meaning of this rule. At the time such hearing is continued, the Commission's action to continue the hearing does not necessarily imply approval of the application, but that the matter may be reconsidered at the continued hearing when conditions of approval will be available, and a final decision will be made at that time.

7. Planning Commission's Decision

Following completion of the hearing, the Commission shall make its decision. In the event it is necessary for the Commission to direct staff to prepare a form of written decision or to prepare additional and/or revised conditions of approval, a hearing may be closed or may be continued to a later date at the discretion of the Commission and final action taken at said later date when a final form of written decision has been prepared for adoption by the Commission.

In the event that the Commission is unable to take action on an item due to inability to obtain four votes to pass a motion, and the Commission does not continue the matter or otherwise dispose of it, the result shall be as follows:

- a. Original Jurisdiction Cases: San Diego County Administrative Code Article XXII, Section 388 provides that "The Commission shall act by a vote of at least four of its members as any application over which the Commission has original jurisdiction shall be deemed disapproved unless approved by such vote."
- b. Appellate Jurisdiction Cases: In cases where the Commission is authorized by law to approve or deny an application which comes to the Commission on appeal from a lower decision maker, the lower decision maker's decision shall stand.
- c. Advisory Jurisdiction Cases: In cases where the Commission is authorized by law to make a recommendation to a higher decision maker on the application, the Commission shall be deemed to have made a recommendation that the application be disapproved.

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8. Planning Commission Action on Public Request to be Heard

The Final Agenda shall include an item entitled Public Request to be Heard. This item shall be an opportunity for members of the public to speak to the Commission on any subject matter within the Commission's jurisdiction, but not an item on that day's agenda. The Commission shall take no action on such matters raised by the public during this item but may refer the matter back to staff for a report. The staff shall review the item and place their report on the earliest possible Planning Commission agenda. The member of the public raising the issue shall be notified of the date the Department's report will be heard by the Commission.

9. Public Notice Requirements for Commission Hearings for Changes of Zone or Revisions to the Zoning Ordinance (pursuant to Government Code Section 65804(a))

Notice of public hearings for changes of zone or revisions to The Zoning Ordinance shall be given pursuant to Government Code Sections 65090 and 65091 of the Government Code, as follows:

- a. Notice shall be published in at least one newspaper of general circulation within the jurisdiction of the local agency which is conducting the proceeding at least ten days prior to the hearing, or if there is no such newspaper of general circulation, the notice shall be posted at least ten days prior to the hearing in at least three public places within the jurisdiction of the local agency.
 - (1) The notice shall include the date, time and place of a public hearing, the identity of the hearing body or officer, a general explanation of the matter to be considered, and a general description, in text or by diagram, of the location of the real property, if any that is the subject of the hearing.
 - (2) Additional notification of the hearing may be given in any other manner deemed necessary or desirable.
- b. If the proposed zoning reclassification or other ordinance amendment affects the permitted uses of real property, hearing notice shall also be given in all of the following ways:
 - (1) Notice of the hearing shall be mailed or delivered at least ten days prior to the hearing to the owner of the subject real property or the owner's duly authorized agent, and to the project applicant.
 - (2) Notice of the hearing shall be mailed or delivered at least ten days prior to the hearing to each local agency expected to provide water, sewage, streets, roads, schools, or other essential facilities or services to the project, whose ability to provide those facilities and services may be significantly affected.
 - (3) Notice of the hearing shall be mailed or delivered at least ten days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property that is the subject of the hearing. In lieu of

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utilizing the assessment roll, the local agency may utilize records of the County Assessor or Tax Collector which contain more recent information than the assessment roll. If the number of owners to whom notice would be mailed or delivered pursuant to this Paragraph or Paragraph b.(1) is greater than 1,000 then in lieu of mailed or delivered notice, the County may provide notice by placing a display advertisement of at least one-eighth page in at least 1 newspaper of general circulation at least 10 days prior to the hearing.

- (4) If the notice is mailed or delivered pursuant to paragraph (3), the notice shall also either be:
 - (a) Published in at least one newspaper of general circulation at least ten days prior to the hearing or:
 - (b) The notice shall be posted at least ten days prior to the hearing in at least three public places within the boundaries of the local agency, including one public place in the area directly affected by the proceeding.
- (5) The notice shall include the information listed in Item a.(1) above.
- (6) Additional notification of the hearing may be given in any other manner deemed necessary or desirable.

REF: B/S 04/04/72 (8)
P/C 04/14/72 (2)
P/C 02/08/74 (9)
P/C 06/20/75 (3)
P/C 08/06/76 (22)
P/C 02/02/79 (Off-Docket)
P/C 04/06/84 (5)
P/C 01/23/87 (5)
P/C 08/02/96 (6)
P/C 01/17/97 (7)
P/C 05/23/97 (7)
P/C 05/08/09 (1)
P/C 10/22/10 (6)